

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SHAWN THOMAS MOORE,)	
)	
Plaintiff,)	Civil Action No. 14-870
)	Judge David Stewart Cercone/
v.)	Chief Magistrate Judge Maureen P. Kelly
)	
SUSEN ROSSINO, M.D.)	
)	Re: ECF No. 119
)	
Defendant.)	
)	

ORDER

Presently before the Court is Plaintiff Shawn Thomas Moore’s “Motion to Compel Answers and Produce Documents to Plaintiff’s Interrogatories and Document Requests Directed to Defendant,” ECF No. 119, and Defendant Susen Rossino, M.D.’s Response in Opposition thereto, ECF No. 122.

I. Interrogatory

In his Motion, Plaintiff first asks the Court to compel Defendant to respond to an interrogatory in which he requested that she provide dates, within certain date ranges, on which she was physically present in the Lawrence County Jail. ECF No. 119 ¶ 25.¹

In her Response, Defendant asserts that Plaintiff’s request as to dates she was present at the Jail has been determined by this Court to be irrelevant and, indeed, is irrelevant. ECF No. 122 ¶¶ 18-36.

¹ Plaintiff urges this Court to find that Defendant has waived any objections to the discovery requests on the basis of late responses. The Court declines to find waiver at this juncture.

This Court did not determine that the requested information is irrelevant. In an Order concerning a similar discovery dispute, this Court found that Plaintiff failed to establish the relevance of the information sought, but did not address the issue substantively. ECF No. 98 at 2. In the current dispute, Plaintiff alleges that the information sought relates to dates on which “Defendant[] claim[s] that Dr. Rossino advised Plaintiff of the need for treatment.” ECF No. 119 ¶ 27. The Court finds that the requested information is discoverable. However, only three of Plaintiff’s requested date ranges correspond to the dates of advice that Plaintiff sets forth. Accordingly, the Motion to Compel is granted as to the corresponding date ranges: (1) August 17-23, 2014; (2) November 23-29, 2014; (3) April 26-May 1, 2015; and (4) May 14-23, 2015. The Motion to Compel is denied as to all other date ranges.

II. Document Requests

Plaintiff additionally asks that the Court compel Defendant to provide documents he requested, *i.e.*, a copy of the contract between Defendant’s employer and PrimeCare Medical for services provided at the Lawrence County Jail by Defendant and a copy of the Defendant’s responsibilities at the Jail. ECF No. 119 ¶ 29. Plaintiff asserts that these documents are relevant to establish Defendant’s liability and that she is an actor of the state. *Id.* at 6.

Defendant asserts that her liability in this civil rights litigation is unrelated to her fulfillment of her contractual duties and responsibilities. ECF No. 122 ¶¶ 37-44. Defendant does not address Plaintiff’s assertion concerning Defendant’s status as a state actor.

While Defendant is correct that her liability in this action is not directly premised on her breach of any contractual duty *per se*, evidence of such a breach may lead to the discovery of admissible evidence. Accordingly, the Motion to Compel is granted as to the specified documents. Of course, Defendant may redact the contract as necessary to protect personal information.

AND NOW, this 7th day of October, 2016, IT IS HEREBY ORDERED that Plaintiff's "Motion to Compel Answers and Produce Documents to Plaintiff's Interrogatories and Document Requests Directed to Defendant, ECF No. 119, is GRANTED IN PART and DENIED IN PART as set forth herein.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/ Maureen P. Kelly
MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Shawn Thomas Moore
LZ-9799
SCI Pittsburgh
P O Box 99991
Pittsburgh, PA 15233

All counsel of record via electronic case filing